IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2082 OF 2005

Yeshwant Shivram Sawant. ... Petitioner
Versus.
Municipal Corporation of
Greater Mumbai and others. ... Respondents.

Shri Bansil Menezes for the Petitioner.
Ms.Aruna Sawla for the Respondents.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 18th JANUARY, 2006.

P.C.:

1. Heard Shri Menezes in support of this petition. Ms.Savala appears for the Corporation and heard. Rule made returnable forthwith. The learned Counsel for the Respondents waives service. The Municipal Corporation has filed an affidavit of one Smt.Sunanda Gaikwad, Administrative Officer, explaining as to why the impugned order has been passed.

2. The Petitioner has been proceeded departmentally under the impugned order twice. On the first occasion for lodging complaints without any substance and on the second occasion in view of the complaint lodged by his wife to the Human Rights Commission with regard to the alleged corruption going on in the Municipal Corporation. As far as the first charge is concerned, the Inquiry Officer himself has held that the charge is not proved. That being so, we fail to understand as to how the period during which he was suspended should go uncondoned.

3. The second charge was however in view the information divulged by him to his wife leading to her complaint to the Human Rights Commission. As far as this part is concerned, we are of the view that the Petitioner cannot be penalised for the complaint lodged by his wife. The submission is that firstly whether it was a real complaint of his wife has to be found out and assuming that be so, he cannot be penalised for the complaint made by his near relative. We accept this submission of the Petitioner, though we also note that as per the reply filed by Mrs.Gaikwad, the Petitioner appears to be in the habit of lodging such complaints from time to time. This is fully disclosed in paragraphs 9 and 10 of the affidavit-in-reply. It is seen that he has been proceeded against for such frivolous complaint from time to time on not less than four occasions and has been punished also earlier. The submission of Ms.Savla is that if the employees start lodging complaints in this manner without any supporting material to various authorities and not going through the proper channel, it would lead to harassment to the Municipal Officers. We could see some merit in this submission also.

4. This being the position, as far as the orders which are under challenge in the present petition are concerned, we interfere with them in view of the fact that the Inquiry Officer himself has exonerated the Petitioner from the first charge. As far as the second

charge is concerned, the Petitioner cannot be penalised for the alleged complaint made by his wife. We will, therefore, give benefit of the suspension period to pay full salary during this period and the penalty of Rs.5000/- recovered from him will be refunded to him.

5. We however caution the Petitioner for filing frivolous complaints from time to time. In his own interest he may stop lodging such frivolous complaints. He has 3-1/2 years to retire and unless there is some concrete material, he should not go on lodging complaints. Such complaints, if at all he has any material, must be routed through proper channel. Otherwise, he must note that he will land into further difficulties and he will have to thank himself if the Corporation takes severe action.

6. We are told that another inquiry is going on against the Petitioner. If any such inquiry is going on, the same will be continued and decided independently on its own merits. Rule is made absolute as above without any order as to costs.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)